



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/376,017	08/19/1999	STANLEY YAMANE	ATV-005	5919

21323 7590 07/21/2003

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

EXAMINER

SALAD, ABDULLAHI ELMI

ART UNIT	PAPER NUMBER
----------	--------------

2157

22

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/376,017

Applicant(s)

LEE, JAE-GOO

Examiner

Salad E Abdullahi

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-18 and 20-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2157

Response

1. The amendment filed on 5/19/2003 has been received and made of record.
2. Applicants remarks filed on 05/19/2003 with regard to claims 1-10, 12-18 and 20-21 have been fully considered but they are not persuasive for the following reasons.

Applicant alleges “ there is no suggestion or motivation to combine Christie with Tamer”. Applicant further alleges Christie is a distributed system that does not have a master source file or master computer, to combine with Tamer’s centralized computer system would require a reconstruction and redesign of the Christie system. Examiner respectfully disagrees these arguments.

First, Christie discloses a system for replicating changes made to a local file system on a first site to a remote file system on a second site, where each site is included a central file server and replicating agent which identifies changes made to files on a local file system on the first site and replicates to a remote file system on the second site (see col. 3, lines 9-24). Although, Christie is silent utilizing a master computer, nonetheless utilizing a master computer would have been obvious modification to Christie’s system as disclosed by Tamer. Tamer discloses a system for replicating changes from a primary or master computer a system to one or more remote computer system (col. 20, lines 15-27). Utilizing a master computer would be beneficial on Christies’s system in order to quickly and conveniently replicate changes on one site to another site.

Art Unit: 2157

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper time wise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.

A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-10, 12-18 and 20-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-13, 15 and 19-26 of co-pending Application No. 09/377,611. Although the conflicting claims are not identical, they are not patentably distinct from each other. Independent claims 1, 12 and 15, of the instant application corresponds to independent claim 1, of the co-pending application.

Art Unit: 2157

Independent claims 16 and 20 of the instant application correspond to claim 19 and 24 of the co-pending application. Dependent claims 2-10, 13-14, 17-18 and 21 of the instant application correspond to dependent claims 2, 4-13, 15, 20-23 and 25-26 of the co-pending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al U.S. Patent No. 6,182,117, in view of Tamer et al., U.S. Patent No. 6,385,626.

As per claims 1, 12, 15 and 20, Christie et al discloses a system for notifying a computer of changes to a source file (replicating changes in a source file set i.e the local site A database on a destination file system), comprising the steps of:

- identifying changes in the source file set (identifying changes made to objects in local site's database (see col. 3, lines 9-65 and col. 5, lines 13-20);

Art Unit: 2157

- storing the identified changes in a modification list (storing updates in an event table), (see col. 5, lines 13-37), comprising unique identifiers (UID) (see col. 3, lines 47-65);
- transmitting the modification list to an agent having access to a destination file stem (see col. 5, lines 13-37); and
- receiving a response from the computer indicating that the identified changes are installed (col. 6, lines 24-30 and col. 19, lines 21-27).

Christie et al., is silent regarding: utilizing a master computer

Nonetheless, utilizing a master computer would have been an obvious modification to Christie's system as evidenced by Tamer et al., . Tamer et al., in an analogous art disclose a system for replicating changes made on a local database to a remote database utilizing a primary or master computer (col. 20, lines 15-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize a master computer with Christie's system as taught by Tamer et al., such that any changed information on the master computer can be quickly and conveniently replicated to the remote computer system [col. 20, lines 23-27].

In considering claims 2 and 13, Christie et al discloses a system for replicating changes in one system's database, i.e., site A to another system, i.e., site B, including:

- identifying changes in the source file set (identifying changes made to objects in local site's database (see col. 3, lines 9-65 and col. 5, lines 13-20);
- storing the identified changes in a modification list (storing updates in an event table), (see col. 5, lines 13-37), comprising unique identifiers (UID) (see col. 3, lines 47-65);

Art Unit: 2157

- transmitting the modification list to an agent having access to a destination file stem (see col. 5, lines 13-37); and
- receiving a response from the computer indicating that the identified changes are installed (col. 6, lines 24-30 and col. 19, lines 21-27).

Although the system disclosed by Christie and Tamer show substantial features of the claimed invention, as discussed above with regard to claim 1.

Christie and Tamer are silent regarding: the computer is a web cache server.

Nonetheless, a web cache server is well known system, part of web service system. Furthermore, Christie et al discloses replicating data between computer sites which are located remotely from each other indicating this replication process can obviously be utilized in web cache server system in order to replicate data from a particular web site to a web caching servers closer to the client computers. Although, Christie and Tamer does not call the computer system a web cache server it would have been obvious to one having ordinary skill in art at the time of the invention to utilize the replicating process taught by Christie and Tamer system in a web cache servers, because it is a design choice.

In considering claims 3-7 and 21 Christie et al discloses a system, wherein the identifying

step comprises the steps of:

inspecting a set of files, comparing the set of files to an earlier-recorded set (see col. 3, line 65 to col. 4, line 10, and col. 5, lines 13-37);

Art Unit: 2157

installing a device driver to perform file operations and recording, by the device driver, changes to the source file set (see col. 10, lines 16-20); and receiving a manifest (table) describing changes to the source file set (see col. 3, line 65 to col. 4, line 10, and col. 5, lines 13-37).

In considering claims 8-10, Christie et al discloses s system further comprising the step of calling a script of user configurable instruction (see col. 3, lines 13-24 and col. 9, lines 44-53).

As per claim 14, step of converting the first list to a second list (see col. 11, lines 20-37).

In considering claim 16, Christie et al., disclose a computer system, composing:

a manager (agent manager) for managing the computer system(see fig. 3a, element 320);

Host (i.e. site A) comprising central file server for receiving requests (see col. 3, lines 9-24);

a content distributor (replicator 308 which act as server agent) in communication with the host and the manger, the content distributor for providing notification of changes to a source file (see col. 3, lines 9-65 and col. 5, lines 13-20);and

receiving a response from the computer indicating that the identified changes are installed (col. 6, lines 24-30 and col. 19, lines 21-27).

Christie et al., is silent regarding: utilizing a master computer.

Nonetheless, utilizing a master computer would have been an obvious modification to Christie's system as evidenced by Tamer et al., . Tamer et al., in an analogous art disclose a system for replicating changes made on a local database to a remote database utilizing a primary or master

Art Unit: 2157

computer (col. 20, lines 15-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize a master computer with Christie's system as taught by Tamer et al., such that any changed information on the master computer can be quickly and conveniently replicated to the remote computer system [col. 20, lines 23-27].

As per the computer system includes a web cache system. Although, Christie et al, and Tamer et al., are silent the computer system includes a web cache system.

However, a web cache system is well known system, part of web service system. Furthermore, Christie et al discloses replicating data between computer sites which are located remotely from each other indicating this replication process can obviously be utilized in web cache system in order to replicate data from a particular web site to a web caching servers closer to the client computers. Although, the system of Christie et al, and Tamer et al does not call the computer system a web cache server system it would have been obvious to one having ordinary skill in art at the time of the invention to utilize the replicating process taught by system of Christie et al, and Tamer et al., in a web cache server system, because it is a design choice.

In considering claim 17, Christie et al., discloses a system further comprising a traffic manager (moderator 314) for directing requests (see col. 10, lines 34-53).

In considering claims 18, Christie et al discloses substantial features of the claimed invention as discussed above with respect to claim 16, including:

- identifying changes in the source file set (identifying changes made to objects in local site's database), (see col. 3, lines 9-65 and col. 5, lines 13-20);

Art Unit: 2157

- storing the identified changes in a modification list (storing updates in an event table), (see col. 5, lines 13-37), comprising unique identifiers (UID) (see col. 3, lines 47-65);
- transmitting the modification list to an agent (340) having access to a destination file stem (see col. 5, lines 13-37); and
- receiving a response from the computer indicating that the identified changes are installed (col. 6, lines 24-30 and col. 19, lines 21-27).

Christie et al., is silent regarding: utilizing a master computer.

Nonetheless, utilizing a master computer would have been an obvious modification to Christie's system as evidenced by Tamer et al., . Tamer et al., in an analogous art disclose a system for replicating changes made on a local database to a remote database utilizing a primary or master computer (col. 20, lines 15-27). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize a master computer with Christie's system as taught by Tamer et al., such that any changed information on the master computer can be quickly and conveniently replicated to the remote computer system [col. 20, lines 23-27].

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 2157

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

8. The prior art made of record and relied upon is considered pertinent to the applicants disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441**. The examiner can normally be reached on Monday to Friday from **8:30 AM to 5:00 PM**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Etienne, Ario** can be reached at **(703)308-7562**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703)305-3900**.

Any response to this action should mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:


(703) 746-7238, (after final communications)

(703) 746-7239, (Official communications)

(703) 746-7240, (Non-Official/Draft).

As

6/25/2003



SALEH NAJJAR
PRIMARY EXAMINER